

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ONEWEST BANK, NA,

Plaintiff,

-against-

FRANK A. BIANCHINI, INDIVIDUALLY  
AND AS SURVIVING JOINT TENANT  
WITH RIGHT OF SURVIVORSHIP OF GAIL  
A. SCAMONI; BISHOPS GATE RESIDENTIAL  
MORTGAGE TRUST; JOHN DOE (being  
fictitious and unknown to Plaintiff, intended  
to be tenants, occupants, persons or corporations  
having or claiming an interest in or lien  
encumbering the property described in the  
Complaint or their heirs at law, distributees,  
executors, administrators, trustees, guardians,  
assignees, creditors, or successors.),

Defendants.

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**HURLEY, Senior District Judge:**

Plaintiff OneWest Bank, NA (“Plaintiff”) commenced this diversity action against defendants pursuant to New York Real Property Actions and Proceeding Law Article 13 to foreclose a mortgage encumbering 535 Ashroken Avenue, Northport, New York. Defendants failed to answer the complaint and Plaintiff moved for a default judgment. By Order dated March 26, 2015 the Court referred the motion to U.S. Magistrate Judge Gary R. Brown, pursuant to 28 U.S.C. § 636(b)(3), for a report and recommendation. On February 22, 2016, Judge Brown issued a Report and Recommendation (“R&R”) that (1) the motion to amend the caption to dismiss John Doe as a party defendant be granted; (2) that the motion for default judgment be granted; and (3) the judgment of foreclosure and sale, and principal, advances, interests,

**ORDER ADOPTING R & R**

14-CV-3234(DRH)(GRB)

attorneys' fees and costs be denied without prejudice to renewal following submission of requisite documentation. A copy of the R&R was served upon defendants on February 23, 2016. More than fourteen days have elapsed since service of the R&R and no objections have been filed.

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its result. Accordingly, this Court adopts the February 22, 2016 R&R of Judge Brown as if set forth herein. Accordingly,

**IT IS HEREBY ORDERED** that (1) the motion to amend the caption to dismiss John Doe as a party defendant be granted; (2) that the motion for default judgment be granted; and (3) the judgment of foreclosure and sale, and principal, advances, interests, attorneys' fees and costs is denied without prejudice to renewal following submission of requisite documentation.

**SO ORDERED.**

Dated: Central Islip, N.Y.  
March 15, 2016

/s/  
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Denis R. Hurley,  
United States District Judge